

**IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI**

**NO. 2014-CP-01107-COA**

**WILLIE LEE MADDEN, JR. A/K/A WILLIE L.  
MADDEN, JR. A/K/A WILLIE LEE MADDEN**

**APPELLANT**

**v.**

**STATE OF MISSISSIPPI**

**APPELLEE**

DATE OF JUDGMENT:	07/21/2014
TRIAL JUDGE:	HON. MICHAEL H. WARD
COURT FROM WHICH APPEALED	HARRISON COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	WILLIE LEE MADDEN JR. (PRO SE)
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: LISA L. BLOUNT
NATURE OF THE CASE:	CIVIL - POST-CONVICTION COLLATERAL RELIEF
TRIAL COURT DISPOSITION:	DENIED MOTION FOR POST- CONVICTION COLLATERAL RELIEF
DISPOSITION:	AFFIRMED: 02/09/2016
MOTION FOR REHEARING FILED:	
MANDATE ISSUED:	

**EN BANC.**

**GRIFFIS, P.J., FOR THE COURT:**

¶1. Willie Lee Madden Jr. appeals the denial of his fifth motion for post-conviction collateral relief (PCCR). Madden requested a reduction of his sentence based on recent amendments to the sentencing requirements in Mississippi Code Annotated section 41-29-139. The circuit court denied the motion. We find no error and affirm.

¶2. In 2004, Madden pleaded guilty to the charge of transfer of a controlled substance. The Court sentenced Madden as a habitual offender to fifteen years to serve day-for-day. *See* Miss. Code Ann. § 99-19-81 (Rev. 2015). Madden has subsequently filed multiple PCCR

motions before this Court.<sup>1</sup> Each has been denied or dismissed.

¶3. When “reviewing a trial court’s dismissal of [a PCCR motion], . . . [w]e will not disturb the trial court’s factual findings unless they are found to be clearly erroneous.” *Mann v. State*, 2 So. 3d 743, 745 (¶5) (Miss. Ct. App. 2009). “[W]here questions of law are raised, the applicable standard of review is de novo.” *Id.*

¶4. The Court notes that Madden’s PCCR motion was untimely filed and constitutes a successive writ. *See* Miss. Code Ann. § 99-39-23(6) (Rev. 2015). Despite these procedural bars, the Court will address Madden’s claim.

¶5. In the motion now before us, Madden seeks a reduction in his sentence based on House Bill 585, a 2014 Legislative amendment to the sentencing requirements found in section 41-29-139. The penalty for the transfer of a controlled substance was amended to “not more than eight years.” Miss. Code Ann. § 41-29-139(b)(1) (Supp. 2015). Madden is currently serving fifteen years under the former version of the statute. *See* Miss. Code Ann. § 41-29-139(b)(1) (Supp. 2004).

¶6. The Mississippi Supreme Court has held that when sentencing occurs before a statutory amendment, the statute that existed at the time of the sentencing applies. *Lampley v. State*, 308 So. 2d 87, 90 (Miss. 1975). If the Legislature chooses to apply an amendment to the sentencing requirements retroactively, it may provide such an instruction in the

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<sup>1</sup> *See Madden v. State*, 176 So. 3d 35 (Miss. Ct. App. 2014); *Madden v. State*, 75 So. 3d 1130 (Miss. Ct. App. 2011); *Madden v. State*, 52 So. 3d 411 (Miss. Ct. App. 2010); *Madden v. State*, 991 So. 2d 1231 (Miss. Ct. App. 2008).

language of the amendment. *Id.* The 2014 amendments provide no such instruction. Thus, Madden is not entitled to a reduction in his sentence. We find no error and affirm.

¶7. **THE JUDGMENT OF THE CIRCUIT COURT OF HARRISON COUNTY DENYING THE MOTION FOR POST-CONVICTION COLLATERAL RELIEF IS AFFIRMED. ALL COSTS OF THIS APPEAL ARE ASSESSED TO HARRISON COUNTY.**

**LEE, C.J., IRVING, P.J., BARNES, ISHEE, CARLTON, FAIR, JAMES AND WILSON, JJ., CONCUR. GREENLEE, J., NOT PARTICIPATING.**